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**OFFICE OF PETITIONS**

In re Application of  
Engwer et al.  
Application No. 09/753,227  
Filed: December 28, 2000  
Attorney Docket No. 3239P071

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(f), filed June 2, 2003, which is being treated as a petition under 37 CFR 1.137(b), to revive the application under the unintentional provisions of 37 CFR 1.137(f).

The petition is Granted.

Petitioner states that the instant nonprovisional application is the subject of a counterpart international application filed on August 17, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b) (2) (B) (iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Non-publication Request which sets forth the projected publication date of October 2, 2003 accompanies this decision on petition.

The application file is being forwarded to Technology Center AU 2665 for further examination in due course.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond  
Paralegal Specialist  
Office of Petitions  
Office of the Deputy Commissioner  
For Patent Examination Policy



Frances Hicks  
Lead Petitions Examiner  
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Office of the Deputy Commissioner  
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Attachment: Notice Regarding Rescission of Non-Publication Request